

vote of the people of the State, calling a convention to frame a new Constitution for the State, and providing for the election of delegates thereto, and the time for the convening thereof.

Senator Baker moved to indefinitely postpone the resolution.

A message was received from the House informing the Senate that the House had passed Senate bill No. 136, "An act to amend Article 766 of the Penal Code," with an amendment by the House.

The hour having arrived for the special order, viz., the consideration of bills of a private nature, on motion of Senator Ruby, the same was postponed until the pending business was disposed of.

The consideration of the joint resolution was again resumed.

On motion of Senator Tracy, the Senate adjourned to 10 o'clock A. M. to-morrow by the following vote:

Yeas—Senators Baker, Ball, Cole, Dillard, Ford, Gaines, Hall, Latimer, Pyle, Ruby, Swift, Tendick and Tracy—13.

Nays—Senators Avinger, Broughton, Dohoney, Finlay, Fountain, Henry, King, Rawson, Randle, Saylor, Sayers, Word and Mr. President—13.

SENATE CHAMBER,)
AUSTIN, TEXAS, April 30, 1873. }

Senate met pursuant to adjournment. Roll called; quorum present. Prayer by the Rev. Dr. Pendleton.

On motion of Senator Gaines, the reading of the journal of yesterday was dispensed with.

Senator Shelley, chairman of the Committee on Finance, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Finance, to whom was referred the consideration of Senate bill No. 316, entitled "An act authorizing the purchase of additional grounds for the use of the asylum for the blind, and making appropriation therefor," have carefully considered the same, and instruct me to report the bill back, with the recommendation that it do pass.

N. G. SHELLEY, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Finance, to whom was referred a bill to be entitled "An act for the relief of Richard S. Walker," have carefully considered the same, and instruct me to report the bill back to the Senate with the recommendation that it do pass.

N. G. SHELLEY, Chairman.

Senator Cole, chairman of the Committee on Private Land Claims, submitted the following reports:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 312, to be entitled "An act for the relief of G. Hoffman," having carefully considered the same, instruct me to report it back, with the recommendation that it do pass.

D. W. COLE, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred House bill No. 468, "An act for the relief of J. Lancaster," having carefully considered the same, instruct me to report it back with the following amendment, and as amended recommend that it do pass.

D. W. COLE, Chairman.

Amend section one as follows: Strike out the word "donation" in line five, and insert in lieu thereof the word "headright."

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred the memorial of the heirs of James W. Dickson, deceased, having carefully considered the same, and the evidence accompanying the same, find it a just claim, and instruct me to report back the accompanying bill, with the recommendation that it do pass.

D. W. COLE, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 247, "An act for the relief of William Simpson," having carefully considered the same, I am instructed to report it back with the recommendation that it do pass.

D. W. COLE, Chairman.

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Private Land Claims, to whom was referred Senate bill No. 188, "An act appro-

priating certain forfeited and illegal surveys to the general school fund," having carefully considered the same, I am instructed to report it back with the recommendation that it do pass.

D. W. COLE, Chairman.

On motion of Senator Tracy, the rules were suspended to take up out of its order House bill No. 468, "An act for the relief of J. Lancaster." The bill was read second time, and the report of the committee recommending amendments adopted; rules further suspended, the bill read third time and passed by the following two-thirds vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dillard, Dohoney, Finlay, Fountain, Hall, Henry, King, Latimer, Randle, Ruby, Saylor, Sayers, Shelley, Swift and Tracy—18.

Nays—Senators Broughton, Franks, Pyle, Rawson and Word—5.

On motion of Senator Shelley, the rules were suspended to take up out of its order Senate bill No. —, "An act for the relief of the heirs of John W. Dickson, deceased," reported by the Committee on Private Land Claims. The bill was read first time; rules suspended, read second time and ordered engrossed; rules further suspended, read third time, and passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Cole, Dohoney, Fountain, Hall, Latimer, Randle, Saylor, Sayers, Shelley, Swift and Tracy—14.

Nays—Senators Broughton, Gaines, Henry, Pyle, Rawson, Tendick and Word—7.

Senator Dillard, chairman of the Committee on Privileges and Elections, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Privileges and Elections, to whom was referred the contested election from the Fifteenth Senatorial District, wherein G. M. Patrick is the contestant and E. T. Randle, the sitting member, is the contestee, have had the same under consideration, and beg leave to report that the contestant, before the committee, abandoned all his grounds of contest except the simple one of residence in the district.

And upon that subject the committee beg leave to say that the contestant placed the contestee upon the stand as

his witness, and nothing occurred before the committee or from other sources to invalidate or in any way impeach the testimony of the witness.

The contestee, as a witness of the contestant, stated that he entered into a contract with Ward, Dewey & Co. to act as their agent to purchase supplies for the penitentiary, and that his pay under that contract commenced from the fifth day of July, 1871; that he was not called into actual service until about the tenth day of September, 1871; that on that day he received his pay from the fifth of July, and entered into the active service of his employers, and from that day he dated his residence and home in the town of Huntsville and county of Walker, and that it has been his home and residence ever since.

That he undertook this employment and fixed that as his home and residence without any regard to his being subsequently appointed inspector of the penitentiary by the Governor of the State.

The contestee is sustained in his statement by the testimony of Messrs. Ward & Dewey, his employers.

The only testimony contradicting this is the evidence of C. D. Harn, who states (according to his understanding), the residence of the contestee commenced at the time of his appointment as inspector of the penitentiary, which was sometime in December, 1871.

So with Gibbs, who said he rented the sitting member's house in January, 1872, and that was the first time he knew of his being there.

So with M. H. Goddin, who says that he did not know the contestee as a resident of Walker county until January, 1872.

From this testimony the committee are brought to the conclusion that the sitting member, the Hon. E. P. Randle, was a resident citizen of the Fifteenth Senatorial District for the time prescribed by law, and eligible to a seat in this body; they therefore offer the following resolution and recommend its adoption.

Resolved, That the Hon. E. T. Randle is entitled to his seat in this body, and ought to be confirmed therein.

JAMES E. DILLARD, Chairman.

T. J. WORD,

HENRY C. KING,

A. J. FOUNTAIN,

HENRY RAWSON,

Committee.

On motion of Senator Finlay the resolution was adopted. Senator Sayers, chairman of the special joint committee of investigation into the official conduct and accounts of the Superintendent of Public Instruction, and of his subordinates, on the part of the Senate, submitted the following report:

Hon. E. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives :

Your special joint committee, to whom was referred concurrent resolution directing inquiry into the official conduct and accounts of the Superintendent of Public Instruction and of his subordinates in office, have performed the duties assigned them to the best of their ability, and report the following as the result of their investigation, to-wit :

1. In the appointment of W. B. Bonner, of "Limestone notoriety," and of George W. Smith, commonly known as "Brenham-burner Smith," as inspectors of schools for Grimes county, your committee are of the opinion that the Superintendent of Public Instruction did, in these appointments, evince a wanton disregard of public opinion, and a criminal disposition to make the power with which he is vested a means by which to reward party fealty at the expense of the common good. The character of these men, and the gross outrages with which they were charged, certainly could not have been unknown to the Superintendent, and their selection to fill so high and important a position as that of inspector of schools, does not indicate that true devotion to the best interests of the department over which he presides that was desired, if not expected, by the people. The testimony of B. A. Strange (No 9), himself an appointee as a member of the board of school directors for the same county, discloses the singular fact that Smith left the county as soon as the Republican nominations had been made; which circumstance, taken in connection with the further fact that he was at the same time postmaster at Corsicana, and while inspector was not known to visit a single school in Grimes county, leads the mind to the inevitable conclusion that his appointment was made for political purposes and not in the interests of the people of the county to which he was sent. What merits these men possessed, beyond those which the notoriety they

enjoy throughout the whole country warrants in attributing to them, the evidence does not show, and your committee feel justified in the belief that the power was used, in this instance, for the purpose of promoting the success of that party of which the Superintendent is so prominent a member, and in whose efforts to control the country he has played so conspicuous a part.

2. By reference to the statement of A. S. Reed (No. 11), it will be perceived that notwithstanding the Superintendent was more than once notified of the character and conduct of the board of school directors of Tarrant county, no investigation was ever directed into the truth of the charges made against them by their superior in office (the witness), and for aught your committee know, these very same men are still retained in the position to which they were originally assigned. Your committee can find no excuse for the conduct of the Superintendent in this matter, and deem it their duty to invite the special attention of this honorable Legislature to so palpable and unjustifiable a failure upon the part of the Superintendent to maintain the good character of the common school system, and to remove from official position such unworthy persons as comprise the board of school directors of which the witness speaks.

3. The testimony of L. P. Rucker and T. J. Lockett (Nos. 8 and 10 respectively) subjects the Superintendent to another charge of a very grave and serious character—that is, *partiality in the payment of teachers*. Your committee have failed to discover any good reason why teachers of colored schools, even though they had come from the North, should receive salaries larger than those of the same grade, who teach white schools. It will be seen from the evidence of Lockett that *six teachers of colored schools, who were ladies from the North*, received pay at the rate of *ninety* dollars per month, while all other teachers, who held the same character of certificates, were paid only *seventy-five* dollars per month. That the Superintendent was cognizant of this fact is beyond all doubt—the vouchers of all teachers, upon which alone payment could be made, being subject to his approval. The rules and regulations adopted by the Board of Education, under the act of November 29, 1871, prescribe the salaries of teachers, allowing those who have second class certificates seventy-five dollars per month, but authorizing the

Superintendent, in *special cases*, to increase their salaries to ninety dollars per month. Why this discrimination was made does not appear in the evidence, except for the reason that these *favoured* teachers had large schools. But they were not without assistants, and surely the character of the schools to which they were assigned did not require qualifications superior to those necessary to be possessed by teachers of white schools.

By Rucker the fact is established that the voucher of Washburne, a teacher of a colored school, was reduced by him to seventy-five dollars per month, and forwarded to the Superintendent, who, for some reason unknown to witness, returned it, increasing Washburne's pay to ninety dollars per month. True it is, that Washburne's school was large, yet the evidence shows that he was assisted by three others, all of whom taught the elementary branches in the same room.

The witness, who held a first class certificate, and was teaching a white school, ranging from fifty to eighty scholars, received only the pay of a second class teacher.

Your committee respectfully submit that the Superintendent being, by virtue of the present school law, vested with almost despotic power, and requiring, with the disposition of an inquisitor, the submission of every official act of his subordinates to his own critical inspection, should be held to a strict responsibility for every piece of impropriety which may have come to his knowledge, and which he has not sought to correct.

4. The purchase of slates, through the intervention of A. S. Mair (No. 2), raises a very grave suspicion in the minds of your committee that a great fraud was practiced in that matter upon the State, and, furthermore, that said fraud was committed within the knowledge and with the connivance, or through the negligence of the Superintendent. The witness, Mair, was *instructed* to purchase from a *particular quarry* a certain number of slates. It is not to be presumed that the Superintendent would have restricted the witness to a single quarry, without knowing what would be the cost. In compliance with these instructions, Mair purchased four hundred and six slates, giving in payment therefor New York acceptances, due ninety days after shipment. Within twenty-five days after leaving the place of manufacture, and more than sixty days before the acceptances fell due, the

slates reached Galveston and Jefferson, at a total cost to Mair of \$5434.24, when Mair was paid for them the sum of \$8275.00, thus realizing a net profit of \$2830.76, on so small an adventure, in so short a time, and without having paid one dollar in advance. Comment is unnecessary; and while it may be true, as the witness asserts, that the Superintendent was not interested *with him* in the purchase, yet inasmuch as he was restricted to a particular quarry, and not permitted to go into the market generally, the committee are clearly of the opinion that the Superintendent is justly censurable for permitting so great a loss to the State, when it might have been so easily avoided by *direct* purchase by the Superintendent, or his subordinates. In the testimony of W. C. Philips (No. 21, page 64), it will be seen that in the purchase of school registers, nineteen hundred and seventy-three dollars were expended, when books of the same kind and of as good quality could have been purchased from the Galveston *News* for nine hundred and sixty dollars, and the State saved a useless expenditure of more than one thousand dollars.

5. On pages 62 and 69 respectively, it will be observed that George W. Smith, W. H. Griffin and John N. Shafter received pay amounting to more than thirteen hundred dollars for services as officers of the militia in Limestone and Freestone counties, and during the *very same time* also drew salaries as officers of the public free schools. (See pages 62-65, inclusive, and also page 69.) Your committee are of the opinion that the Superintendent, in permitting these men to draw "double pay," acted in utter disregard of the public interest, and was guilty of a *favoritism* for which no satisfactory apology can be offered. Nor can he shelter himself behind the opinion of the Attorney General, that a position in the militia was not such an office as debarred one from being an officer in the public free schools. If Griffin, Smith and Shafter were rendering actual service in the field (to which fact the unfortunate people of Limestone and Freestone counties will testify), they certainly were not performing their duties at the same time and at a different place as officers of the free schools; and such being the case, we know of no law or rule of equity, or principle of morality, that authorizes their payment for services that they did not and could not perform. Upon the Superintendent

rests the responsibility of thus expending the public moneys. Such conduct cannot be too severely reprehended. It indicates a looseness of official morality that stands in strange contrast with that of the officials of other days, and is the more conspicuous because it is exhibited in the conduct of one whose example should be worthy of all imitation.

According to the testimony of E. J. Davis (p. 87), it will be seen that these men were directed to refund their commutation money. Their pay proper was retained. By reference to the report of the Adjutant General, giving an abstract of the disbursement of moneys, etc., it will be observed that the fuel commutation of these men did not amount to more than one hundred dollars, so that the pay they received as militia officers, after returning the commutation money, exceeded twelve hundred dollars. While upon the subject of the improper disbursement of public funds, which were under the exclusive control of the Superintendent, your committee would invite the further attention of this honorable Legislature to the following facts, as disclosed in the testimony of W. C. Phillips (No. 21), J. D. McCall (pp. 69-79 inclusive), W. D. Moore (No. 27), David Sheeks (No. 28), H. O. Heffter (No. 26), to-wit:

First. The appointment of Charles Parker by the Superintendent, as examiner in the Bureau of Education, and his payment as such, while he was in the service of the United States as a detective, and for which he drew pay from the General government.

Second. That Stanley Welch was paid as *an employé* in the Superintendent's office from the twenty-first day of December, 1872, to the twenty-first day of January, 1873, and at the same time he was in the employment of the *State Journal* office, at Austin, Texas.

Third. That the *Superintendent* himself drew *double* pay for the month of January, 1872, which was not rectified until discovered in the office of the Comptroller.

Fourth. That notwithstanding the Superintendent was furnished with a *free* ticket over the Central railroad, yet for trips on said road he drew, upon an average, more than twelve dollars per day for traveling expenses.

Fifth. That without the authority of law he employed, and caused to be paid out of the school fund, attorneys, when there were district attorneys to represent the State.

From a careful examination of the evidence it will be discovered that there is no testimony tending to disprove the facts which have been last enumerated.

Mr. Welch (No. 38) says that he *left* the employ of the Educational Department on the twenty-second day of last January, but does not deny that he was, before leaving, in the employment of the *State Journal*; and Mr. Newcomb (No. 41), one of the proprietors, himself testifies that Mr. Welch assisted him "in book-keeping matters" before formally employed—that is, before the twenty-second of January last. In order to justify the employment of attorneys, we cannot think that the Superintendent will be permitted to plead the authority of the Board of Education. Your committee, after a most careful examination, have wholly failed to discover any law permitting the expenditure of the school fund for such a purpose; nor can your committee conceive the necessity of so doing, there being an attorney in each district whose duty it is to represent the State in all matters, civil as well as criminal.

6. The unjustifiable diversion of the one per cent. school tax from the purposes for which it was designed by the law, exhibits a character singularly willful and arbitrary, and has established a precedent hitherto unknown to the civil history of this country—that the law is to be respected only when it comports with the will of the officer, and whenever the necessity, however slight, occurs, affords no protection to the citizen, though its language be ever so strong.

7. As an evidence of the extravagance of the Superintendent, your committee invite attention to the cost of the "clerical force" in his office. This does not include other expenses, which, if corresponding with the items above mentioned, would increase the cost of maintaining the central office of the Department of Public Schools to an amount truly alarming.

8. That the high and responsible office of Superintendent of Public Instruction has been used for political purposes, and made to subserve partisan ends, will, in the opinion of your committee, be the conclusion of every candid mind, from a careful survey of the evidence which your committee present for the consideration of this honorable Legislature. The testimony of Warren Norton (page 47), and C. Caldwell (No. 36), places the fact be-

yond dispute, and your committee are forced to the painful conclusion that the Department of Public Instruction, which ought to be entirely free from all political influences whatever, has been so contaminated by partyism and the maladministration of its chief, as to be, in its present condition, a curse rather than a blessing to the people.

Section three of the act of November 29, 1871, gives the Superintendent an unlimited control of that portion of the school fund which is paid into the State Treasury; and availing himself of that provision in the law, he has not hesitated to withdraw from the possession of the proper custodian of the public money, large sums, and afterwards filing vouchers to cover the same. Statement No. 51 of the Comptroller shows that on the fourteenth day of August, 1871, the Superintendent drew upon requisition the sum of fifty thousand dollars, but did not obtain a corresponding credit until April, 1873, more than seven months afterwards. The Superintendent having been permitted to draw moneys by requisition from the Treasury, thus relieving the Comptroller from duties which are particularly incident to his office, it has been entirely impracticable for your committee to ascertain whether or not any frauds have been practiced, other than such as appear in the evidence. Certainly there was every opportunity, through the mode adopted, for speculating with the public funds, and imposing upon those who may have held such accounts and vouchers as were payable out of said funds. It is not therefore to be presumed that, from the failure of this committee to bring to light any other irregularities and improprieties upon the part of the Superintendent and his subordinates, except those which are disclosed in the testimony, none others were perpetrated. Your committee have confined themselves to the presentation of such facts as are not contradicted, and with which the Superintendent is directly connected. There are many other facts contained in the evidence, equally pertinent with those that have been cited, which establish, beyond all dispute, the criminality of those engaged in their accomplishment.

In conclusion, your committee say that the Superintendent of Public Instruction has been guilty of the most palpable abuse of his official position, doing those things which he ought not to have done, and leaving undone those things which he should have done, as is manifest

from the testimony; that with millions of dollars subject to his own exclusive control, and every officer and teacher throughout the whole State utterly defenseless against the gratification of his slightest whim, however unreasonable and undeserved, his exercise of power has been such as is peculiar to tyrants only, and his expenditures of the public money reckless and extravagant beyond all precedent.

Your committee do not think it necessary to recommend any particular character of action by this honorable Legislature, in regard to the Superintendent of Public Instruction. The facts presented are pregnant with suggestions as to the course that should be pursued. No crime should be held in greater abhorrence by the legislative department of any government than the willful abuse of a public trust.

Respectfully submitted,

JOS. D. SAYERS,

Chairman Senate Committee.

H. J. AVINGER,

A. J. BALL,

Committee on the part of the Senate.

J. S. MILLS,

Chairman House Committee.

K. M. VAN ZANDT,

STEPHEN POWERS,

J. W. KEMBLE,

L. E. GILLET,

W. D. WOOD,

J. PAYNE,

JAMES M. ANDERSON.

Senator Hall, a member of the special joint committee to investigate the official conduct and accounts of the Superintendent of Public Instruction, and of his subordinates, submitted the following minority report:

Hon. E. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives:

SIRS: It would be perhaps sufficient for the minority of the special joint committee of investigation to say that from the moment the majority of your committee decided to take all evidence against the Superintendent of Public Instruction in secret and *ex parte*, they hardly deemed it proper or just that they should attend the com-

mittee, as it seemed to have already settled upon their report by such action; but when the doors of the committee room were open to the Superintendent, and he was refused, as we think, an impartial investigation, when he was not allowed a clerk, and the rulings of the committee were against established rules of law, your minority remained away, with the exception of a few meetings, altogether. However, we desire to lay before the honorable Legislature a few facts in the testimony and action of the committee, and ask your attention thereto. We give appended hereto the different protests of the Superintendent of Public Instruction, which, in our opinion, should have been made part of the proceedings of the committee.

Regarding the evidence of Mr. Strange as to Mr. Smith's reputation, establishes nothing. He states George W. Smith was known by reputation as the officer who commanded the Federal troops at Brenham when Brenham was burned. It was also well known that Gen. Sheridan personally investigated this matter and exonerated Smith. Smith being an educated man, fully capable of filling the position of inspector, received that appointment. That Mr. Strange does not know of his *own knowledge* that Smith ever examined a school in Grimes county does not prove that he did not. If the committee believed he had not, why did they not establish this fact by sending for and examining some of the teachers?

As to W. B. Bonner having been charged with stuffing the ballot box in the election of Limestone and Freestone counties, Mr. Strange gives as a rumor, but the country well knows that out of a registered Republican vote of about 600, the Republican candidate only received twenty-eight votes; so if Mr. Bonner stuffed the ballot box of Limestone county, of which county we are reliably informed he was registrar, he must have done so for the Democratic party.

We find upon a careful perusal of the testimony nothing whatever to show that the Superintendent corruptly or otherwise used the school money or any portion thereof, but on the contrary, we find he has made complete settlement with the Comptroller, as per statement attached to testimony marked No. 51. This statement shows that he drew the last requisition on August 14, 1872, amounting to fifty thousand dollars, and settled

that requisition in April, 1873. If the committee had any doubt as to what had been done with this money, why did they not apply to the State Treasurer, where they would have found that not one dollar of this amount had been drawn from the treasury, except when paid to teachers and employes after the Comptroller had audited their vouchers. Further, if the committee believed that any of the school fund had been used except for their legitimate purposes, it was well known that all school money drawn on requisition had been deposited with Messrs. Raymond & Whitis, of Austin, whose evidence could have been procured at any moment.

The transaction of the purchase of slates seems to your minority committee, as far as the Superintendent is concerned, a legitimate transaction. We refer to the testimony in the cross-examination of Mr. A. S. Mair, page 7; and it will be further seen by the testimony of Hon. Wm. Alexander, Attorney General and member of the Board of Education, as well as by testimony of Gov. E. J. Davis, that the Attorney General recommended to the Board of Education the purchase of these slates, and called the attention of the board to this particular quarry. (See page 98 of the testimony.)

Two hundred and thirty-five thousand dollars were drawn by the Superintendent on requisition, and that amount has been settled by him to the satisfaction of the accounting officer of the State, the Comptroller. This is the only money which *could*, according to the laws of our State, pass through the Superintendent's hands, and *not the millions spoken of by the majority of your committee.*

How, then, can it be even intimated that he has speculated with public funds, when there is not one iota of evidence to sustain such a charge?

As to the evidence of Messrs. Rucker and Lockett, where it is charged by the majority of your committee that the Superintendent has shown partiality in the salaries of teachers of white and colored schools, it is not true; he has allowed in the county of Washington six teachers, teaching colored schools, old rate salary, as he is permitted to do by regulations of Board of Education, as shown in the testimony of Mr. Rucker, page 25. And in this matter we refer to the evidence of Rev. J. G. Lieb, No. 42, which shows that not a white person in Washing-

ton county could have been procured to teach a colored school, and it is well known throughout the State that it has been impossible to procure the services of Texans to teach colored schools at any price. Every witness of whom the question was asked, stated they did not know of any partiality having been shown by the Superintendent of Public Instruction to teachers; also, that he never asked, either before or after their appointment, the politics of school directors, teachers, principals or inspectors; nor is it anywhere shown in the evidence that the Superintendent had used his office for political purposes, but it is shown to the contrary whenever the question was asked. (See evidence of Governor Davis, page 88; Senator Baker, 102; Col. Morrison, 120; Gov. Flanagan, 112; and others.)

As to the statement of Mr. Reed, principal of schools of Parker and Tarrant counties, *he must have known that the law gave supervisors the power to appoint and remove school directors*; so his complaints, if any were made, should have been to that officer; but in examining the list of witnesses whom the Superintendent requested to have summoned, and to which list he was required by the committee to make oath as to what he expected to prove by them, we find that he requested the summons of Hon. A. B. Norton, of Dallas, for the purpose of proving the character of the board of directors of Tarrant county, and that the statement of Mr. Reed in regard to the board was not correct; that he also requested the summons of Dr. Ewing and Mr. E. Hovenkamp to prove the statements made by Mr. Reed were not correct.

The testimony of Mr. Maxwell, accountant of the Superintendent's office, shows that in the examination and approval of about thirty thousand accounts, but five mistakes had been made in their examination—that is, five accounts had been approved twice. The evidence of Mr. McCall shows that these errors were rectified—the Superintendent's among the rest.

As to the evidence of Mr. Philips, regarding the purchase of teachers' registers, it is shown by the evidence of Mr. Raven (No 45, p. 116) that the ruling and binding alone could be done at his establishment at one dollar and fifty cents apiece—this without the paper and printing; while the State only paid one dollar apiece for them. It

will also be seen by the evidence of Mr. Philips that he asked one of the proprietors of the *Galveston News* at what price they would furnish another department with certain books; and after ascertaining the price, did not notify the Superintendent. What his object could have been, we cannot conjecture.

Before closing this report, we desire to call the attention of the Legislature to the fact that the committee was in session over two and one-half months; that during this time it sat in secret, and took evidence *ex parte* for about three weeks, and gave the Superintendent—for the purpose of having his witnesses brought here and examined—eight days; that is, they gave him from the second of April to the ninth of April (originally to the eighth), subpoenaing witnesses in the city of Austin on the third, and giving him subpoenas for the witnesses for the State at large on the morning of the fourth of April, after the mail had left, thereby leaving him (excluding Sunday) four days in which to bring witnesses from long distances and different parts of the State. Attention is especially invited to this action of the committee, and to his statement under oath as to what he desired to prove by his witnesses. The labors performed by the Superintendent of Public Instruction in opening to the youth of the State two thousand and sixty-seven free schools, employing two thousand six hundred and twenty-five teachers, and placing into these schools over one hundred and twenty-seven thousand children, at an actual cost to the State of about one dollar and forty cents per scholar per month, with all expenses paid, in the first year of the operation of the school law, speaks for itself.

The testimony, in our opinion, shows that the Superintendent has performed his duty fully under the law which he has sworn to execute; if this law is not one the majority of your committee approves, it is not his fault.

The Superintendent had, no doubt, the power to make political capital with his office, but no evidence has been produced to show that he has done so, except that of Judge Caldwell, and he speaks of street rumors; he had also opportunities to speculate with school money, but no evidence has been elicited to show that he has done so; but, on the contrary, the committee, while in secret session, and once afterwards (see evidence of Thomas H. Sharp, page 61, re-examination), did ask different wit-

nesses questions affecting the honesty and integrity of the Superintendent, and were in all instances answered in his favor; but this evidence was not recorded, except in the case of Sharp.

We here call attention to the evidence of Mr. Philips (page 64, cross-examination), which shows that Colonel Parker was never indebted to the State.

The Superintendent, before approving the vouchers of Col. Parker and Col. Smith, traveling examiners, and Major Griffin, supervisor, while the two latter were serving as militia officers, and the former in the United States revenue service, asked the opinion of the Attorney General as to the justice of their claim as school officers; upon his opinion (see page 98) their vouchers were approved. We also refer to the Attorney General's evidence, on pages 97 and 98, and of Mr. Eggleston, No. 44.

We call attention to the statement of Major John N. Shafter (page 101), who swears that he did not draw pay as supervisor and major of militia for the same time. Major Welch was an employé of the Superintendent's office to the twenty first of January, 1873, which is shown by the testimony of Major Welch (No. 38, page 110), and also by Hon. J. P. Newcomb (No. 40, page 112), and nothing to the contrary is shown, except that he was in the *State Journal* office before that time, which may have been true, but it is not shown that he did not perform his services in the Superintendent's office; he may have worked at the *Journal* office after office hours; nothing is produced to show that he worked there during office hours.

The evidence of Warren Norton should not be taken into consideration; he states that Mr. Ribble was supervisor of schools when he taught at Sherman, but the report of the Superintendent shows that Ribble had been discharged nearly a year before that time. (See testimony, page 46.) His entire testimony and letters attached thereto show that he is not reliable.

The majority of your committee refer to the employment of attorneys to represent the State in school tax cases, and blame the Superintendent severely for such action, when it is shown on page 100 that the Board of Education directed the Superintendent to so employ an attorney and fix his salary. This has no doubt been done under section five of the school act, approved April 24,

1871. In justice to the Superintendent we desire to state, that on the first day of the meeting of the Senate committee, he informed the chairman, Honorable J. D. Sayers, that newspapers had made serious charges against him regarding the purchase of slate blackboards, furniture and school books, taking the ground that he was interested in their sale; he requested the chairman then and afterwards to send interrogatories to the different houses from whom these articles were purchased, and ascertain whether these rumors were based on facts, but this was not done. *The reason why this was not done* we cannot give, as the committee certainly should have sent to the *fountain head* to get facts, and not receive street rumors and accept hearsay as evidence.

The minority of your committee deem hardly worth noticing that portion of the report of the majority of your committee which refers to the Superintendent drawing traveling expenses when he had a free pass over the Central Railroad, which it is well known that in this as well as all other States, passes are given to persons by railroads and not to offices they may occupy, and we have yet to learn that any member of the Legislature holding a free pass has ever refused to accept his mileage.

The suspicions the majority of your committee seem to entertain in reference to certain purchases could, we opine, have been easily cleared up if they had so desired, by sending interrogatories to the places of purchase.

In conclusion we desire to say that the testimony, although taken in a great measure *ex parte*, fails to sustain the charges and insinuations contained in the report of the majority of your committee.

P. W. HALL,

For minority of Committee.

The hour having arrived for the special order, viz., House bill No. 125, "An act to prescribe the mode and manner of designating exempted homesteads in certain counties, on motion of Senator Tracy the same was postponed until the morning call was through with.

A message was received from the House informing the Senate of the passage by the House of the following bills:

House bill No. 794, "An act to amend section seven of an act entitled an act to incorporate the city of Waco."
House bill No. 560, "An act to amend Articles 527 and 527a of the Code of Criminal Procedure."

House bill No. 332, "An act supplemental to and amendatory of the several acts concerning injunctions."

House bill No. 50, "An act to regulate the practice of medicine."

Also, that the House had adopted the report of the committee of conference on Senate bill No. 218, "An act to establish and maintain a system of public free schools in the State of Texas."

Senator Tracy moved a suspension of the rules to submit a document relative to the report of the special joint committee of investigation into the conduct and accounts of the Superintendent of Public Instruction and of his subordinates.

The Senate refused to suspend the rules by the following vote:

Yeas—Senators Baker, Ford, Flanagan, Fountain, Franks, Gaines, Hall, Rawson, Saylor, Tendick and Tracy—11.

Nays—Senators Avinger, Ball, Cole, Dillard, Dohoney, Evans, Finlay, Henry, King, Latimer, Sayers, Shelley, Swift, Word and Mr. President—15.

Senator Dohoney, chairman of the committee of conference on the part of the Senate, submitted the following report, which was adopted:

Hon. E. B. Pickett, President of the Senate, and Hon. M. D. K. Taylor, Speaker of the House of Representatives:

SIRS: Your committee of free conference of the two Houses, to whom was referred the questions of difference between the Senate and House of Representatives, on Senate bill No. 218, entitled "An act to establish a system of public free schools in the State of Texas," have had the same under careful consideration, and beg leave to make the following report, viz:

That the House shall recede from the first and second amendments to section one.

That the House shall recede from the House amendment to section sixteen.

That the House shall recede from the third and fourth amendments to section twenty-two.

That the House shall recede from the amendment to section twenty-three, and that said section be stricken out and the following be inserted in lieu thereof: SEC. 23. An *ad valorem* tax for the scholastic year commencing

September 1, 1873, of twenty-five cents upon each one hundred dollars of taxable property is hereby levied for the purpose of building and repairing school houses, which shall be collected in the same manner as other taxes are collected, in the several school districts of the several counties; *provided*, that this tax or any portion thereof may be relinquished (before collection) to the tax payers of any district, by the board of directors, upon information from the board of trustees of said district, that no such tax is necessary; *and provided further*, that the tax herein provided for shall not go into the public school fund, but shall be expended in the district in which it may be collected; *and provided further*, that no district shall be taxed for the building or repairing of school houses situate in any other district; *and provided further*, that this tax shall not be collected in any district wherein no public free school is established or proposed to be established.

That the House shall recede from the first amendment to section twenty-five.

That the Senate shall concur in the second amendment to section twenty-five.

That the House shall recede from the third amendment to section twenty-five.

That the Senate shall concur in the second amendment to section twenty-seven.

That the House shall recede from the first amendment to section thirty-two.

That the House shall recede from the second amendment to section thirty-two.

That the Senate shall concur in the second amendment to section thirty-four.

That the Senate shall concur in the amendment to section thirty-seven.

That the Senate shall concur in the House substitute for section thirty-eight.

That section thirty-eight shall be section thirty-nine.

E. L. DOHONEY,

Chairman Senate Committee.

J. W. KEMBLE,

Chairman House Committee.

Senator King, chairman of the Committee on Engrossed Bills, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on Engrossed Bills have ex-

amined and find correctly engrossed the following bills, viz.:

Senate bill No. 255, "An act to incorporate the Paris Street Railway Company."

Senate bill No. 248, "An act to empower the Commissioner of the General Land Office to issue to Willett Holmes a headright certificate of one league and labor of land."

Senate bill No. 275, "An act to organize the county of Green."

Senate bill No. 207, "An act to incorporate the Shelby County Agricultural, Mechanical and Industrial Association."

Senate bill No. 184, "An act to incorporate the Germania of Columbus."

Senate joint resolution No. 32, instructing our senators and requesting our representatives in Congress to endeavor to secure the improvement of the harbor of Galveston, and requesting for the memorial of the mayor and board of aldermen of the city of Galveston, upon that subject, the early and favorable consideration of the Congress of the United States.

Senate bill No. 254, "An act to incorporate the city of El Paso."

HENRY C. KING, Chairman.

By leave Senator Cole, chairman of the Committee on Private Land Claims, returned a petition for the relief of J. H. Brown, and the same was referred to the Committee on State Affairs.

Senator Pyle introduced a bill to be entitled "An act to validate certain land certificates therein named." Read first time and referred to the Committee on Private Land Claims.

Senator Finlay, chairman of Judiciary Committee No. 2, submitted the following report:

Hon. E. B. Pickett, President of the Senate:

SIR: Your Judiciary Committee No. 2, to whom was referred House bill No. 67, to be entitled "An act to repeal all laws or parts of laws authorizing any person, department, or head thereof, to have printing done at the expense of the State or counties," having carefully considered the same, I am instructed to report it back to the Senate and recommend its passage with the following amendment:

Amend section one by adding at the end thereof the following words: "*provided*, that nothing herein contained shall affect the provisions of an act entitled "An act to provide for the public printing," passed at the present session of the Legislature.

GEO. P. FINLAY, Chairman.

Senator Finlay, chairman *pro tem.* of the Committee on State Affairs, also submitted the following reports:
Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 691, to be entitled "An act to prohibit the sale of intoxicating, spirituous or vinous liquors within one and a half miles of Sylvan Academy, in Lamar county," having carefully considered the same, I am instructed to report it back to the Senate and recommend its passage.

GEO. P. FINLAY, Chairman *pro tem.*

Hon. E. B. Pickett, President of the Senate:

SIR: Your Committee on State Affairs, to whom was referred House bill No. 727, to be entitled "An act to prohibit the sale of intoxicating, spirituous or vinous liquors within three miles of Roxton Chapel and Seminary in Lamar county," having carefully considered the same, I am instructed to report it back and recommend its passage.

GEO. P. FINLAY, Chairman *pro tem.*

Senator Tracy introduced a bill to be entitled "An act to incorporate the Houston City Park Association." Read first time and referred to the Committee on State Affairs.

Senator Dohoney offered the following resolution:

Resolved, That the President be and is hereby authorized to appoint a clerk to take down the testimony of the witnesses in the case of the impeachment of John G. Scott of the Tenth Judicial District.

Senator Shelley moved to amend the resolution by inserting before the word "clerk" the word "phonographic." Carried.

The resolution as amended was adopted.

Senator Randle introduced a bill to be entitled "An act to incorporate the Sabine and Santa Fé Central Railway Company, and to provide the aid of the State of Texas in constructing the same." Read first time and referred to the Committee on Internal Improvements.

Senator Saylor introduced a bill to be entitled "An act

for the relief of James R. Pace." Read first time and referred to the Committee on Private Land Claims.

Senator Cole introduced a bill to be entitled "An act to authorize G. W. Harper to construct and keep a toll bridge across South Sulphur Fork of Red River." Read first time and referred to the Committee on Roads, Bridges and Ferries.

Senator Broughton introduced a bill to be entitled "An act for the relief of Francis W. Johnson." Read first time and referred to the Committee on Private Land Claims.

Senator Randle introduced a bill to be entitled "An act to validate first class land certificate No. 150, issued to Freeman Prewitt by the board of land commissioners of Jasper county, July 5, 1839." Read first time and referred to Committee on Private Land Claims.

Senator Latimer offered the following resolution:

Resolved, That the chairman of the Committee on Enrolled Bills is hereby authorized to employ an additional clerk.

Adopted.

On motion of Senator Dohoney, the special order, viz., House bill No. 125, "An act to prescribe the mode and manner of designating exempted homesteads in certain counties," was postponed until 10:30 o'clock A. M. tomorrow.

The special order, viz., Senate bill No. 281, "An act granting pensions to the surviving veterans of the revolution which separated Texas from Mexico," was then taken up. The bill was read second time.

Senator Finlay proposed to amend the bill by adding to section one the following: "And each and every surviving veteran who served in the army and navy of the Republic of Texas after the twenty-first day of April, 1836, and previous to the twenty-ninth day of December, 1845 (not otherwise provided for in this act), including the Mier prisoners, is hereby granted a pension of one hundred dollars from and after the first day of July, 1873."

On motion of Senator Henry, the bill and amendment offered by Senator Finlay were referred to Judiciary Committee No. 2 by the following vote:

Yeas—Senators Avinger, Broughton, Cole, Dillard, Dohoney, Evans, Flanagan, Fountain, Franks, Henry, King, Pyle, Rawson, Swift and Word—15.

Nays—Senators Baker, Ball, Finlay, Hall, Latimer,

Randle, Ruby, Saylor, Shelley, Tendick, Tracy and Mr. President—11.

Senator Shelley moved to postpone the special order, viz., Senate bill No. 292, "An act to incorporate the Sherman, Tyler and Henderson Railway Company, and to grant lands to aid in the construction thereof," until the unfinished business of yesterday was disposed of. Lost by the following vote :

Yeas—Senators Avinger, Baker, Fountain, Gaines, Hall, Latimer, Randle, Ruby, Saylor, Shelley, Tendick, Tracy and Mr. President—13.

Nays—Senators Ball, Broughton, Cole, Dillard, Dohoney, Evans, Flanagan, Franks, Henry, King, Pyle, Rawson, Sayers, Swift and Word—15.

The bill was read second time.

The hour having arrived for the special order, viz., the consideration of bills of a private nature, on motion of Senator Broughton the same was postponed until the pending business was disposed of.

The bill just read was again taken up, and the following amendments recommended by the committee were adopted :

1. Strike out "chief justice" wherever it occurs, and insert "presiding justices."

2. Amend section eight by inserting after the word "Greenville," in line seven of said section, the following words: "And within one-half mile of said court house in the town of Greenville; *provided*, the citizens of said town shall donate the necessary lands for depot purposes."

3. Amend by inserting after the word "Tyler," in line eight, of section eight, the following: "And within one mile of the court house of Emory, in Raines county."

Senator Cole then offered the following amendment: After "Raines county," "or within one-half mile of said court house; *provided*, the citizens will furnish suitable depot grounds."

Adopted.

Senator Dillard moved to amend by striking out sections sixteen and seventeen.

Senator Swift moved to lay the amendment offered by Senator Dillard on the table, which was carried by the following vote :

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole,

Dohoney, Finlay, Flanagan, Gaines, Henry, King, Latimer, Pyle, Rawson, Saylor, Sayers, Shelley, Swift, Word and Mr. President—20.

Nays—Senators Dillard, Evans, Ford, Fountain, and Randle—5.

Senator Swift moved to amend by adding the name of W. H. Swift after the name of J. E. Ellis, in section one, line five. Adopted.

Senator Flanagan moved to amend by inserting, "SEC. 23. That this act take effect and be in force from and after its passage." Adopted.

Senator Broughton moved to amend section four, line ten, after the word "estate" by inserting the words "that may be necessary for the purposes of operating their road." Adopted.

The bill as amended was then ordered engrossed.

Senator Broughton moved a further suspension of the rules, and that the bill be read third time. Carried.

Senator Fountain moved to strike out section seventeen.

Senator Swift moved to lay the amendment on the table. Carried by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Evans, Finlay, Flanagan, Henry, King, Latimer, Pyle, Rawson, Randle, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—22.

Nays—Senators Dillard, Fountain, Gaines Hall and Ruby—5.

Senator Finlay moved to amend by inserting "railroad" before "corporation," in the tenth line of the seventeenth section. Carried.

The question being the final passage of the bill, the same was put, and the bill passed by the following vote:

Yeas—Senators Avinger, Baker, Ball, Broughton, Cole, Dohoney, Evans, Ford, Finlay, Flanagan, Franks, Henry, King, Latimer, Pyle, Rawson, Saylor, Sayers, Shelley, Swift, Tendick, Word and Mr. President—23.

Nay—Senator Dillard—1.

On motion of Senator Saylor, Senator Tendick was granted leave of absence from the second until the tenth day of May.

On motion of Senator Swift, the Senate adjourned to 9 o'clock A. M. to-morrow.